IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 787 (MS) OF 2006

Pushkar Singh Rawat,
S/o Sri Sukhdeep Singh Rawat,
R/o P.W.D. Colony, Jherikhal,
Pauri Garhwal. .....Petitioner.

Versus

1. Executive Engineer, Provincial Division, Public Works Department, Lansdowne.
2. Superintending Engineer, 36th Circle, Public Work Department, Pauri District- Pauri Garhwal.
3. State of Uttaranchal, through Collector, District-Pauri Garhwal. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Chetan Joshi, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus restraining the respondents from realizing the amount of the damages from the salary of the petitioner. Further prayer has been made for a writ of certiorari quashing the impugned order dated 01.06.2005 (Annexure No. 7 to the writ petition).

Briefly stated, according to the case of the petitioner, he is a Class IV employee in Provincial Division of Public Works Department, Lansdowne and also he was President of IV Class Employees Union, Public Works Department Lansdowne.

Petitioner has submitted that there are Class III employees quarter of the aforesaid department in Jherikhal, Lansdowne, which are being vacated by the employees for dissolution of circle. The Executive Engineer, Provincial Division Public Works Department Lansdowne wrote a letter to the petitioner to see that employees of Class IV and in absence of Class III employees can also be allotted the said quarter and the class IV employees, who desired to get the said quarter may apply within a period of seven days to the Executive Engineer.

It was a condition in the aforesaid letter that if the quarter is not occupied by anyone, the same may be acquired by the by the Administration.

According to the petitioner, he was orally asked to occupy House No. 111/4 Jherikhal Colony, Lansdowne by Executive Engineer and he occupied the same on 07.10.2002.

Petitioner has submitted that on 15th January, 2004, the State Administration allotted Class III workers quarter to Class IV employees, in absence of class III employees. On 22.06.2004, the quarter was allotted in the name of the petitioner.

However, petitioner has submitted that all of a sudden on 05.11.2004, the petitioner's allotment was cancelled and by letter dated 30.12.2004, the petitioner was asked to vacate the quarter.

Pursuant to the letter dated 30.12.2004, the petitioner requested the Assistant Engineer, Provincial Division, Public Works Department to allot him alternate accommodation having two rooms as per G.O. dated 15.01.2004.

Petitioner was allotted House No. 11/3 on 12.12.2005 w.e.f. 21.06.2005 @ Rs. 70/- per month, which was deductible from the monthly salary.

The grievance of the petitioner is that by order dated 01.06.2005 Executive Engineer has assessed damages on his unauthorized occupation from 07.10.2002 to 21.06.2004 at the rate of Rs. 1465/- per month which comes to Rs. 34,486/-.

On 24.02.2006, the Executive Engineer has explained the circumstances to Superintending Engineer 36th Circle, Public Works Department Pauri about the circumstances in which the petitioner occupied house No. 111/4 i.e. in the interest of the department and not in his own interest and thereby requested for cancelling the remainder deductions. The proceedings of recovery against the petitioner were stopped.

Again the respondents have started pressurizing the petitioner for payment of rest of the amount of damages as assessed by order-dated 01.06.2005. The Superintending Engineer wrote a letter demanding certain quarries on 22.03.2006.

Petitioner has submitted that the allotment of house in his favour was in the interest of the department not in his own interest and only ten percent of his salary which comes to Rs. 70/-

In view of the aforesaid grievance of the petitioner, the matter is sent back to the authority concern, who shall decide the same within a period of two months from the date of production of the certified copy of the order. Till the matter is decided the recovery proceedings initiated against the petitioner shall remain stayed.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

23.06.2006
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